

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

15 CV 01923

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MINNIE ROSE LLC,

Plaintiff,

v.

ANNA YU a/k/a/ ANNA YUE, ELVA  
GREEN CLOTHING COMPANY LTD.  
a/k/a/ ELVA GREEN CLOTHING (HK)  
CO. LTD., and JOHN DOES 1-10,

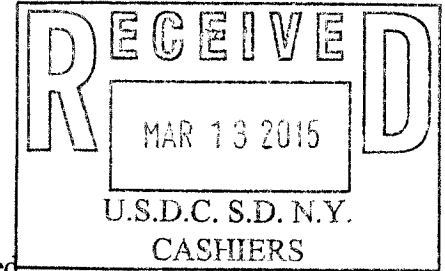
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Defendants.

Civil Action No.

**COMPLAINT**

Jury Trial Demanded



Plaintiff Minnie Rose LLC (“Minnie Rose”), by its attorneys, Sills Cummis & Gross P.C., for its Complaint against Anna Yu a/k/a/ Anna Yue (“Yu”), Elva Green Clothing Company Ltd. a/k/a/ Elva Green Clothing (HK) Co. Ltd. (“Elva Green”) and John Does 1-10 (“John Does”) (collectively, “Defendants”) alleges as follows:

**NATURE OF THE ACTION**

1. This action seeks to remedy the fraud committed by Defendants in connection with Yu’s and Elva Green’s duties as the primary sourcing agent for Minnie Rose, a New York corporation that designs, manufactures and sells contemporary women’s clothing.

2. Minnie Rose engaged Yu’s services in or about 2009. Yu, through her closely held corporation, Elva Green, was responsible for selecting factories, supervising the production of Plaintiff’s garments in such factories (all of which were located in China), and invoicing Minnie Rose for same.

3. Yu and/or Elva Green, however, systematically defrauded Minnie Rose by creating artificial invoices (the “Fraudulent Invoices”) that inflated the manufacturing costs for each and every item Minnie Rose ordered through them from the commencement of Yu’s and

Elva Green's services in 2009 through the termination of Minnie Rose's relationship with Yu and Elva Green in 2014. Upon Minnie Rose's payment in full of the sums listed on the Fraudulent Invoices, Yu and/or Elva Green would cause payment of the actual invoiced sums to be made to the Factories and would retain the balance.

4. Additionally, because Elva Green was entitled to earn a ten percent commission on the FOB cost of the products Yu and/or Elva Green sourced for Minnie Rose, Yu and/or Elva Green's creation of the Fraudulent Invoices caused Minnie Rose to unwittingly pay excessive and unearned commissions to Elva Green.

5. Minnie Rose was further harmed by paying additional customs duties, which were calculated from the inflated sums listed on the Fraudulent Invoices.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction under 28 U.S.C. § 1332(a), since the matters complained of herein represent a dispute between citizens of a State and citizens of a foreign state and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. A substantial part of the events or omissions giving rise to the claims asserted in this action occurred in this District. Therefore, venue in this District is proper pursuant to 28 U.S.C. § 1391(b).

### **THE PARTIES**

#### **Plaintiff**

8. Minnie Rose is a corporation organized and existing under the laws of the State of New York having a principal place of business at 264 West 40th Street, New York, New York 10018.

#### **Defendants**

9. Upon information and belief, Yu is an individual residing c/o Elva Green Clothing (HK) Co. Ltd., Flat B-1, 4th Floor, Lippo Leighton Tower, 103 Leighton Road, Causeway Bay, Hong Kong.

10. Upon information and belief, Elva Green is a corporation organized and existing under the laws of Hong Kong having a principal place of business at Flat B-1, 4<sup>th</sup> Floor, Lippo Leighton Tower, 103 Leighton Road, Causeway Bay, Hong Kong.

11. Upon information and belief, John Does are individuals who added, abetted, conspired with, participated in and/or benefitted from the unlawful conduct set forth in this Complaint.

#### **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

12. In or about 2009, upon the recommendation of Minnie Rose's then minority owner, Minnie Rose engaged the services of Yu to supervise the overseas production of Minnie Rose's garments, and began using only the factories recommended by Yu, all of which were located in China (the "Factories"), for the production of Minnie Rose's garments.

13. In exchange for Yu's services, Minnie Rose paid Yu and/or Elva Green a commission equaling ten percent of the FOB cost of each garment produced by the Factories and shipped to Minnie Rose.

14. Throughout Yu's and Elva Green's relationship with Minnie Rose, Yu's primary responsibility was overseeing the production of Minnie Rose's garments at the Factories. To that end, Yu was responsible for, *inter alia*: delivering Minnie Rose's tech packs (which typically included fabric swatches, designs and specifications) to the Factories; overseeing the Factories' bulk production and production of samples, including proto samples and salesman samples;

negotiating fabric and production prices with the Factories; coordinating production, including scheduling deliveries; and coordinating payment of the Factories' invoices by Minnie Rose.

15. In connection with Yu's duty to coordinate invoice payments, upon information and belief, the Factories sent and Yu and/or Elva Green received all invoices generated by the Factories for purposes of delivering such invoices to Minnie Rose.

16. However, instead of doing so, upon information and belief Yu and/or Elva Green created the Fraudulent Invoices, which inflated each and every sum listed on the actual Factory invoices (the "Actual Invoices"), and sent such Fraudulent Invoices to Minnie Rose.

17. Minnie Rose then paid the amounts listed on the Fraudulent Invoices in full, satisfying Minnie Rose's obligations to the Factories as documented on the Actual Invoices, and allowing Yu and/or Elva Green to retain the balance.

18. Upon information and belief, Yu and/or Elva Green perpetrated this fraud with the knowledge of and/or assistance of John Does in at least the following two distinct ways.

19. Upon Yu and/or Elva Green's receipt of each invoice from the Tonglu Caili Garment Co. LTD Factory, Yu and/or Elva Green would, upon information and belief, create a phony invoice that increased the amount due for each garment listed on the Actual Invoice and would then demand that Minnie Rose make payment not to the Factory's bank account –as listed on the Actual Invoice – but to a bank account that was, upon information and belief, owned and controlled by Yu and/or Elva Green. Examples of such Actual and Fraudulent Invoices are annexed hereto as Exhibit A.

20. Upon information and belief, upon receipt from Minnie Rose of the sums listed on such Fraudulent Invoices, Yu and/or Elva Green would cause payment of the Actual Invoices to be made to the Factories and would retain the balance.

21. Yu and/or Elva Green also defrauded Minnie Rose by representing to Minnie Rose that Yu and/or Elva Green were required to pay an out-of-pocket deposit for yarn and labels for garments produced by the Shanghai Dongfang Wool Knitting Co., LTD Factory. Upon information and belief, Yu and/or Elva Green received Actual Invoices from said Factory and created phony invoices which inflated the sums contained on the Actual Invoices. Examples of such Actual and Fraudulent Invoices are annexed hereto as Exhibit B.

22. Yu and/or Elva Green then demanded that Minnie Rose reimburse Yu and/or Elva Green directly for said alleged deposit and pay the Factory the remainder of the invoiced amounts. Because neither Yu nor Elva Green ever made any such deposits, Yu and/or Elva Green's receipt of the "reimbursement" payments from Minnie Rose was a windfall to which neither Yu nor Elva Green was not entitled.

23. Yu and/or Elva Green's creation and dissemination of such Fraudulent Invoices, upon information and belief with the knowledge and/or assistance of John Does, additionally harmed Minnie Rose because by artificially increasing the FOB cost of the garments delivered to Minnie Rose, Yu and/or Elva Green caused Minnie Rose to pay increased commissions to Elva Green and customs duties.

**As and for a First Cause of Action**  
**Fraudulent Misrepresentation**  
**(Against Yu and John Does)**

24. Minnie Rose repeats and realleges each of the allegations set forth above as if fully set forth herein.

25. Yu's and John Does' inflation of the invoiced prices listed on the Factories' Actual Invoices was done knowingly. In inflating such prices, Yu and John Does knowingly misrepresented material facts concerning the actual invoiced amounts and/or intentionally

omitted material facts, with the intent that Minnie Rose would rely upon the false information, to Minnie Rose's detriment.

26. At the time Yu made each of the aforementioned misrepresentations and false statements, Yu and John Does knew and/or should have known that Minnie Rose would rely on the Fraudulent Invoices in paying the sums stated thereon.

27. Minnie Rose reasonably and justifiably relied upon Yu's and John Does' misrepresentations and false statements in paying the inflated sums as listed on the Fraudulent Invoices during the relevant time period.

28. As a direct result of Minnie Rose's reasonable and justifiable reliance on Yu's and John Does' misrepresentations and false statements, Minnie Rose has suffered damages in the minimum amount of \$2,200,000.00 and further seeks an award of punitive damages in an amount to be determined at trial.

**As and for a Second Cause of Action**  
**Fraudulent Misrepresentation**  
**(Against Elva Green and John Does)**

29. Minnie Rose repeats and realleges each of the allegations set forth above as if fully set forth herein.

30. Elva Green's and John Does' inflation of the invoiced prices listed on the Factories' Actual Invoices was done knowingly. In inflating such prices, Elva Green and John Does knowingly misrepresented material facts concerning the actual invoiced amounts and/or intentionally omitted material facts, with the intent that Minnie Rose would rely upon the false information, to Minnie Rose's detriment.

31. At the time Elva Green and John Does made each of the aforementioned misrepresentations and false statements, Elva Green and John Does knew and/or should

have known that Minnie Rose would rely on the Fraudulent Invoices in paying the sums stated thereon.

32. Minnie Rose reasonably and justifiably relied upon Elva Green's and John Does' misrepresentations and false statements in paying the inflated sums as listed on the Fraudulent Invoices during the relevant time period.

33. As a direct result of Minnie Rose's reasonable and justifiable reliance on Elva Green's and John Does' misrepresentations and false statements, Minnie Rose has suffered damages in the minimum amount of \$2,200,000.00 and further seeks an award of punitive damages in an amount to be determined at trial.

**As and for a Third Cause of Action**  
**Unjust Enrichment**  
**(Against Yu)**

34. Minnie Rose repeats and realleges each of the allegations set forth above as if fully set forth herein.

35. Yu benefitted from Minnie Rose's payments of sums due under the Fraudulent Invoices that Yu did not earn and that were not due under the Actual Invoices, and all increased commission other expenses that Minnie Rose would not have incurred or paid to Yu but for the Fraudulent Invoices.

36. Yu's enrichment was at the expense of Minnie Rose.

37. Justice, equity and good conscience require full restitution of the monies wrongfully received by Yu from Minnie Rose.

38. As a direct and proximate result of Yu's wrongful conduct, Minnie Rose was damaged in the minimum amount of \$2,200,000.00.

**As and for a Fourth Cause of Action**  
**Unjust Enrichment**

**(Against Elva Green)**

39. Minnie Rose repeats and realleges each of the allegations set forth above as if fully set forth herein.

40. Elva Green benefitted from Minnie Rose's payments of sums due under the Fraudulent Invoices that Elva Green did not earn and that were not due under the Actual Invoices, and all increased commission other expenses that Minnie Rose would not have incurred or paid to Elva Green but for the Fraudulent Invoices.

41. Elva Green's enrichment was at the expense of Minnie Rose.

42. Justice, equity and good conscience require full restitution of the monies wrongfully received by Elva Green from Minnie Rose.

43. As a direct and proximate result of Elva Green's wrongful conduct, Minnie Rose was damaged in the minimum amount of \$2,200,000.00.

**PRAYER FOR RELIEF**

WHEREFORE, Minnie Rose respectfully requests that this Court enter a judgment against the Defendants as follows:

- A. That Minnie Rose have a recovery from Defendants of all damages sustained by Minnie Rose resulting from Defendants' unlawful conduct in an amount to be determined at trial, including punitive damages;
- B. That Minnie Rose have all other and further relief as the Court may deem just and proper under the circumstances.

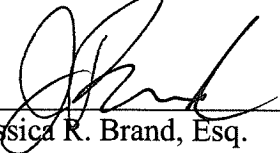
**DEMAND FOR A TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Minnie Rose hereby demands a trial by jury.



Dated: New York, New York  
March 13, 2015

SILLS CUMMIS & GROSS P.C.

By:   
\_\_\_\_\_  
Jessica R. Brand, Esq.

101 Park Avenue, 28th Floor  
New York, New York 10178

Attorneys for Plaintiff

# **EXHIBIT A**

# TONGLU CAILI GARMENT CO. LTD

## PROFORMA INVOICE

NO.: 14CL006

DATE: MAY.28,2014

TO: MINNIE ROSE, USA

FOB SHANGHAI, CHINA

DESCRIPTION	WO#	STYLE #	QUAN TTY	UNIT PRICE	TOTAL AMOUNT
LADIES 100% COTTON EVER YDAY PULLOVER	2443	F3045C14	302	PCS US\$10.50	US\$3,171.00
LADIES 100% COTTON BASIC L/S PULLOVER	2553	F2868C14	96	PCS US\$11.00	US\$1,056.00
LADIES 100% COTTON BASIC L/S PULLOVER	2447	F2868C14	328	PCS US\$11.00	US\$3,608.00
LADIES 77% COTTON 20%NYLON 3%SPANDEX L/S CREW PULLOVER	2446	F0655C14	686	PCS US\$12.00	US\$8,232.00
LADIES 77% COTTON 20%NYLON 3%SPANDEX TANK	2453	F1041C14	516	PCS US\$7.00	US\$3,612.00
LADIES 100% COTTON CASCADING CARDIGAN	2523	B2441B13	413	PCS US\$12.00	US\$4,956.00
LADIES 100% COTTON FRINGE RUANA	2458	F2639C14	315	PCS US\$10.20	US\$3,213.00
LADIES 100% COTTON REVERSIBLE RUANA	2457	F2671C14	1145	PCS US\$13.50	US\$15,457.50

MADE IN CHINA

TTL: 3801 PCS US\$43,305.50

BENES BANK : BANK OF CHINA TONGLU SUB-BRANCH  
 BENES NAME : TONGLU CAILI GARMENT CO., LTD  
 ADDRESS OF BANK : TONGLU COUNTRY, ZHEJIANG, CHINA  
 BANK A/C : 2010-0009-1981-986  
 SWIFT CODE : BK-CH-CN-BJ-910  
 REMARKS : TONGLU

# TONGLU CAILI GARMENT CO. LTD

## PROFORMA INVOICE

NO.: 14CL006 (PRE)

FOR PAYMENT

DATE: July 15, 2014

TO: MINNIE ROSE, USA

DESCRIPTION	WO#	STYLE #	QUAN TITY	UNIT PRICE	TOTAL AMOUNT
FOB SHANGHAI, CHINA					
LADIES 100% COTTON EVER YDAY PULLOVER	2443	F3045C14	302	PCS US\$15.10	US\$4,560.20
LADIES 100% COTTON BASIC L/S PULLOVER	2553	F2868C14	96	PCS US\$15.50	US\$1,488.00
LADIES 100% COTTON BASIC L/S PULLOVER	2447	F2868C14	328	PCS US\$15.50	US\$5,084.00
LADIES 77% COTTON 20%NYLON 3%SPANDEX L/S CREW PULLOVER	2446	F0655C14	686	PCS US\$12.40	US\$8,506.40
LADIES 77% COTTON 20%NYLON 3%SPANDEX TANK	2453	F1041C14	516	PCS US\$9.00	US\$4,644.00
LADIES 100% COTTON CASCADING CARDIGAN	2523	B2441B13	413	PCS US\$14.00	US\$5,782.00
LADIES 100% COTTON FRINGE PONCHO	2458	F2639C14	315	PCS US\$14.20	US\$4,473.00
LADIES 100% COTTON REVERSIBLE PONCHO	2457	F2671C14	1145	PCS US\$20.00	US\$22,900.00

MADE IN CHINA

TTL:	3801	PCS	US\$57,437.60
		50% prepayment :	US\$28,718.80

SAY TOTAL US DOLLARS TWENTY-EIGHT THOUSAND SEVEN HUNDRED EIGHTEEN AND CENTS EIGHTY ONLY

BENEFICIAL: MASA CO.

BENEFICIARY BANK : HANG SENG BANK LIMITED

BENEFICIARY BANK ADD : # 83 DES VOEUX ROAD, CENTRAL, HONG KONG

ACCOUNT NO.: 390-372548-883

SWIFT BIC: HASEHKHH

# **EXHIBIT B**

# SHANGHAI DONGFANG WOOL KNITTING CO.,LTD.

## PROFORMA INVOICE

NO.: 2014-007

DATE: July 17, 2014

TO: MINNIE ROSE, USA

DESCRIPTION	WO#	STYLE #	QUOTA CAT	QUANTITY	Unit Price	Total Amount
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FOB SHANGHAI, CHINA

LADIES 100% CASHMERE KNITTED SNAP V NECK CARDIGAN	2442	F3102C14		486 PCS	US\$45.50	US\$22,113.00
LADIES 100% CASHMERE KNITTED DUSTER	2519	F001C14		239 PCS	US\$31.00	US\$7,409.00
LADIES 100% CASHMERE KNITTED RUANA	2524	F0841C14		615 PCS	US\$24.00	US\$14,760.00
LADIES 100% CASHMERE KNITTED BLANKET WRAP	2525	F2630C14		130 PCS	US\$50.60	US\$6,578.00
LADIES 100% COTTON KNITTED COZY COTTON OMBRE PO	2531	F3039C14		148 PCS	US\$15.00	US\$2,220.00
LADIES 100% CASHMERE KNITTED L/S PULLOVER	2537	F2725C14		515 PCS	US\$39.50	US\$20,342.50

MADE IN CHINA

TTL:	2133 PCS	US\$73,422.50
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SAY TOTAL U.S. DOLLARS SEVENTY-THREE THOUSAND FOUR HUNDRED AND TWENTY-TWO CENTS FIFTY ONLY

NAME: SHANGHAI DONGFANG WOOL KNITTING CO., LTD.

ADD: FL 2, NO.20, LANE 1862 PUDONG SOUTH ROAD, PUDONG, SHANGHAI

TEL: 68761821

FAX: 68755278

A/C NO.: 31014008000226000173(SWIFT CODE:PCBCCNBJSHX)

BANK: CHINA CONSTRUCTION BANK SHANGHAI PUDONG BRANCH LIULI SUB-BRANCH

ADD: NO.76 PUJIAN ROAD PUDONG, SHANGHAI, CHINA

# SHANGHAI DONGFANG WOOL KNITTING CO.,LTD.

## PROFORMA INVOICE

NO.: 2014-007 (PRE)  
(FOR PAYMENT)

DATE: July 17, 2014

TO: MINNIE ROSE, USA

DESCRIPTION	WO#	STYLE #	QUANTITY	Unit Price	Total Amount
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FOB SHANGHAI, CHINA

LADIES 100% CASHMERE KNITTED CARDIGAN	2442	F3102C14	486 PCS	US\$53.50	US\$26,001.00
LADIES 100% CASHMERE KNITTED CARDIGAN	2519	F001C14	239 PCS	US\$35.50	US\$8,484.50
LADIES 100% CASHMERE KNITTED PONCHO	2524	F0841C14	615 PCS	US\$29.00	US\$17,835.00
LADIES 100% CASHMERE KNITTED SHAWL	2525	F2630C14	130 PCS	US\$57.00	US\$7,410.00
LADIES 100% COTTON KNITTED PULLOVER	2531	F3039C14	148 PCS	US\$22.00	US\$3,256.00
LADIES 100% CASHMERE KNITTED L/S SWEATER	2537	F2725C14	515 PCS	US\$39.50	US\$20,342.50

MADE IN CHINA

TTL:	2133 PCS	US\$83,329.00
	Deducted split yarn & labelling cost to be billed under Elva Green D/N #	
	EG2014-5039 :	US\$9,906.50
	Total to pay :	US\$73,422.50
	50% prepayment :	US\$36,711.25

SAY TOTAL US DOLLARS THIRTY-SIX THOUSAND SEVEN HUNDRED ELEVEN AND CENTS TWENTY-FIVE ONLY

NAME: SHANGHAI DONGFANG WOOL KNITTING CO., LTD.  
 ADD: FL 2, NO.20, LANE 1862 PUDONG SOUTH ROAD, PUDONG, SHANGHAI  
 TEL: 68761821  
 FAX: 68755278  
 A/C NO.: 31014008000226000173(SWIFT CODE:PCBCCNBJSHX)  
 BANK: CHINA CONSTRUCTION BANK SHANGHAI PUDONG BRANCH LIULI SUB-BRANCH  
 ADD: NO.76 PUJIAN ROAD PUDONG, SHANGHAI, CHINA